IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 511 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VINODCHANDRA RAVJIBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR AR LAKHIA for Petitioner

MR BY MANKAD, APP for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 14/12/2000

ORAL JUDGEMENT

1. The original complainant of crime registered as Cr.R. No. 1/88 with ACB police station, Banaskantha, at Palanpur, has by filing this criminal revision application u/s 397 of the Code of Criminal Procedure, 1973 [for short `Cr.P.C.'], challenged correctness,

legality and propriety of the order dated 3rd April 1993 passed by Special Judge appointed under the Prevention of Corruption Act, 1988 [who will be referred to hereinafter as the Special Judge] below the final report u/s 173[2] of the Cr.P.C. filed by Investigating Officer of ACB police station, Palanpur in the matter of crime registered at Cr.R. No. 1/88, Palanpur on 29th January 1988 of ACB police station.

2. When this Criminal Revision Application was taken up for final hearing, the learned advocates for both the parties jointly submitted that the impugned order under challenge be set aside with certain appropriate directions to be given to the learned Special Judge, without assigning any reasons in the order of this Court.

3. Having heard the learned advocates for both the parties, and on going through the impugned order challenged in this revision application and the grounds stated in the memo of this revision application, this Court is of the view that the impugned order is required to be set aside mainly on following two grounds :-

[i] Before passing an order granting `B' summary, notice was issued against the complainant, but on the day of hearing, his advocate was sick, and that very advocate expired on 17/4/1983 and therefore, "right of hearing" was not availed of, by the complainant.

[ii] The learned Judge who passed the impugned order has not assigned any reasons in his order for arriving at a decision for grant of `B' summary.

4. In view of what is stated hereinabove, this Court is satisfied that the complainant has not been given full opportunity of being heard in the subject matter of police report dated 11/7/1989 below which the impugned order has been passed. In view of this, the impugned order is set aside. The learned Special Judge [the learned Sessions Judge, Palanpur] is directed to hear and decide the subject of report dated 11th July 1989 filed by the Investigating Officer of C.R. No. 1/88 of ACB police station, Palanpur, afresh by affording full opportunity of being heard to both the parties, including the complainant, without being influenced by the order of this Court. Before fixing the date of hearing on Report dated 11/7/1989, the learned Special Judge shall serve the notices to all concerned including the complainant, well in advance.

5. As the case is of the year 1988, the learned Special Judge is directed to hear and decide the aforesaid police report dated 11/7/1989, by which the Investigating Officer has prayed for grant of `B' summary, within three months from the date of receipt of the writ of this Court.

6. In view of this, the present Criminal Revision Application stands disposed of with aforesaid directions. Rule is made absolute accordingly.

DECEMBER 14, 2000 [H.H.MEHTA, J.]
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